Ronald van der Leeden
Director
Regulatory Affairs

555 W. Fifth Street, GT14D6
Los Angeles, CA 90013-1011
Tel: 213.244.2009
Fax: 213.244.4957
RvanderLeeden@semprautilities.com

December 21, 2018

Energy Division
Attention: Tariff Unit
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

Re: **Reply to Protest and Response of SoCalGas Advice No. (AL) 5386, Southern California Gas Company Energy Efficiency Incentive Award for Program Years (PY) 2016 and 2017**

Dear Tariff Unit:

Pursuant to General Order (GO) 96-B, Southern California Gas Company (SoCalGas) hereby replies to the protest of the California Public Advocates Office (CalPA) and the response of The Natural Resource Defense Council (NRDC), dated December 17, 2018, to SoCalGas AL 5386.[1]

Background

In Decision (D.) 13-09-023, the California Public Utilities Commission (Commission) adopted the Efficiency Savings and Performance Incentive (ESPI) mechanism for the 2013-2014 Energy Efficiency (EE) program cycle and beyond. The ESPI consists of the following components:

1. Non-Resource Program Management Fee
2. Codes & Standards (C&S) Program Management Fee
3. Ex Ante Review Process Performance Award
4. EE Resource Savings Performance Award

[1] While CalPA's protest is dated December 17, 2018, its service email was incomplete. CalPA subsequently reserved its protest on December 18, 2018. SoCalGas is therefore submitting this reply five business days from the date of CalPA's reservice of its protest.

On November 26, 2018, SoCalGas submitted AL 5386, which complies with D.13-09-023, D.15-10-028, and D.16-08-019. SoCalGas seeks approval of its PY 2016 and PY 2017 EE Incentive Mechanism award in the amount of $2,355,624.

CalPA Protest and NRDC Response

In its protest, CalPA requests that the Commission deny SoCalGas' request for $91,293 in ESPI payments for its work on C&S advocacy for the 2017 program year, alleging that in light of statements in D.18-05-041 it is not reasonable to reward SoCalGas with a C&S management fee for PY 2017. CalPA further requests that the Commission direct SoCalGas to return $91,293 in ESPI payments made for C&S advocacy authorized by Resolution E-4897 given that the Commission approved the $91,293 when it was unaware of CalPA's contentions in Application (A.) 17-01-013 et. al.[2] Lastly, CalPA requests that the Commission direct the Division of Water and Audits[3] to examine SoCalGas' request of $20,763 for pre-2016 installation dates to ensure that they are neither under-counted nor double-counted and credited to the correct program year.

In its response, NRDC requests that the Commission scrutinize the request made by SoCalGas to receive shareholder incentives for C&S advocacy investments and activities.[4]

SoCalGas' Reply to the Protest and Response

SoCalGas respectfully disagrees with the positions of CalPA and NRDC because SoCalGas' final EE incentive award for PY 2016 and PY 2017 as submitted, is compliant with Commission decisions and should be approved.

While the Commission noted that it would limit SoCalGas' involvement in C&S advocacy during the business plan period,[5] it did not make a finding that SoCalGas misused ratepayer funding for C&S advocacy[6] nor did it modify the mechanism for determining SoCalGas' ESPI reward for past activities.[7] In D.18-05-041, the Commission states "**we decline to consider a penalty for SoCalGas's past conduct** but instead limit their future involvement in statewide C&S advocacy as a precautionary measure."[8]

The Commission directed SoCalGas to continue to fund C&S activities given the continued implementation of the C&S programs within SoCalGas' service territory.[9] This directive is in line with the focal point of the C&S Program Management Fee

[2] CalPA Protest, at 3-4.
[3] Also referred to as the Utility, Audit, Finance and Compliance Branch.
[4] NRDC Response, at 2.
[5] D.18-05-041, FOF 76.
[6] D.18-05-041, at 143-144.
[7] D.18-05-041, at 144.
[8] D.18-05-041, at 151.
[9] D.18-05-041, OP 53.

component of the ESPI mechanism. The C&S Program Management Fee is included in the ESPI mechanism as "**an incentive to reward savings from building C&S Programs**, paid as a management fee equal to 12% of approved C&S program expenditures, not to exceed authorized expenditures, and **excluding administrative costs**."[10] During 2016 and 2017, SoCalGas funded statewide and local C&S Programs in its service territory, and in line with the Commission's ESPI mechanism, SoCalGas has requested earnings associated with savings achieved through these programs. The Commission would be doing a disservice to the spirit and intent of the ESPI award if it would revise SoCalGas' award for past advocacy efforts based on the forward-looking actions taken in A.17-01-013 et. al.

Contrary to CalPA's assertions that the Commission limited SoCalGas' involvement in C&S because it found the evidence presented by CalPA compelling,[11] the Commission made clear in D.18-05-041 that "Commission policy does not explicitly prohibit PAs from using ratepayer funds, intended for C&S advocacy, to engage in any activity that does not result in adoption of more stringent C&S."[12] Furthermore, the Commission noted that there are "no rules or guidance for determining whether and under what circumstances a utility may be 'justified' in arguing against more stringent C&S."[13] In fact, in D.18-05-041 Conclusion of Law 79, the Commission was clear that "requests for sanctions against **alleged** past misconduct in C&S advocacy are not within the scope of this proceeding. Such requests, as well as consideration of ESPI reward modifications based on the statewide administration structure adopted in this decision, are within scope of R.13-11-005 or its successor." Nowhere in the Decision did the Commission support adjudicating these issues through an ESPI advice letter.

Energy Division should disregard the protest of CalPA and the response of NRDC because the Commission has not made a decision on SoCalGas' ability to receive an ESPI award related to its past C&S activities, nor has it concluded that it will take this matter up for consideration. Further, in D.18-05-041, the Commission states "**we decline to consider a penalty for SoCalGas's past conduct** but instead limit their future involvement in statewide C&S advocacy as a precautionary measure."[14]

Energy Division should also disregard CalPA's request for SoCalGas to refund it's entire PY 2016 award for C&S programs. As stated previously, the Commission did not make a finding that SoCalGas misused ratepayer funds, nor undermined gas efficiency standards as CalPA alleges. While SoCalGas' activities in certain instances did not support more stringent standards, these efforts were in accordance with the approved Statewide Program Implementation Plan, were thoroughly supported by legitimate

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[10] D.13-09-023, at 20.
[11] CalPA Protest, at 2.
[12] D.18-05-041, FOF 78.
[13] D.18-05-041, at 143.
[14] D.18-05-041, at 151.

concerns (such as high costs to low-income customers), and were openly communicated.[15]

Lastly, Energy Division should disregard CalPA's recommendation of directing the Commission's Division of Water and Audits to examine the disputed claims. SoCalGas has utilized Energy Division Staff's 2016 ex post data[16] and adjustment parameters outlined in the Final 2018 ESPI Performance Statement to present SoCalGas' case for claims that were excluded from PY 2016 EE resource savings award. Energy Division Staff prepared the respective reports and workbooks for the 2018 ESPI award, as well as 2017 ESPI award, and would be the most appropriate division to review SoCalGas' request. However, Energy Division should only review SoCalGas' claims if such information is required by the Commission in a particular proceeding.

Conclusion

In accordance with SoCalGas' reply to the protest of CalPA and the response of NRDC, SoCalGas respectfully requests that the Commission reject the protest and approve AL 5386 as submitted.

Sincerely,

/s/ Ronald van der Leeden
Ronald van der Leeden
Director – Regulatory Affairs

cc: Edward Randolph, Director, Energy Division
Abhilasha Wadhwa, Energy Division
Ronald van der Leeden, Director Regulatory Affairs, SoCalGas
Ray Ortiz, Tariff Manager, SoCalGas
Service List in R.13-11-005

[15] See 2013-2014 Energy Efficiency Programs Statewide Codes and Standards Program Implementation Plan (May 29, 2013), at 2. Available at https://cedars.sound-data.com/documents/download/151/main/.
[16] SoCalGas' utilized Energy Division Staff's workbook and reports provided at https://file.ac/5K5apKj41Dw/.